State Administrative Manual

| MANAGEMENT MEMO | NUMBER: 99-11 |
|-------------------------------------|-----------------------------------|
| SUBJECT: | DATE ISSUED: |
| PAYMENTS TO CONTRACTORS | August 11, 1999 |
| THE CALIFORNIA PROMPT PAYMENT ACT | EXPIRES: August 11, 2000 |
| REFERENCES: | ISSUING AGENCY: |
| GOVERNMENT CODE SECTION 927 ET SEQ. | DEPARTMENT OF GENERAL SERVICES |

The California Prompt Payment Act (the Act) (Chapter 916, Statutes of 1998, AB 2275, Kuykendall), which became effective January 1, 1999, requires that state agencies pay properly submitted, undisputed invoices within 45 calendar days of receipt, or automatically calculate and pay the appropriate late payment penalties. The Act is codified in Government Code, Section 927 et seq. The 45 days provided for in the Act includes 30 days for the agency to submit a correct claim schedule to the State Controller, and not more than 15 days for the State Controller to issue the warrant. Except in the event of an emergency (as defined in the Act), the late payment penalties may not be waived, altered, or limited by a state agency, or by any person or business contracting with a state agency. The Act provides for late penalty payments on all payments, however businesses certified as small by the Office of Small Business Certification Resources and recognized nonprofits receive a higher interest penalty. State agencies are encouraged to reference Department of Finance Budget Letter 98-40 for more details about the Act and recent changes to State Administrative Manual Sections 8474 and 8475.

The Department of General Services (DGS) Procurement Division has received requests to prepare contracts that specify a payment cycle time that is longer than 45 days. Although certain language in the Act may appear to permit invoice payment cycle times that extend beyond 45 days, other language clearly expresses the intent of the Legislature that contractors be paid within 45 days. It is the DGS policy to honor the intent of the legislation. Therefore, requests to lengthen the time it takes to pay contractors beyond 45 days will not be approved. Likewise, the Office of Legal Services will generally not approve contracts with payment periods longer than 45 days.

NEW REPORTING REQUIREMENT

Section 927.9(a) of the Prompt Payment Act requires agencies to, on an annual basis and within 90 days following the end of each fiscal year, provide the Director of General Services with a report on late payment penalties that were paid by the state agency as required by the Act. In addition, agencies are encouraged to provide a description of any relevant performance measures or other pertinent information regarding planned improvements.

Please direct any questions regarding this report to Lea Fox at (916) 323-0802. Please send your completed form (attached) no later than September 30, 1999 to the DGS Procurement Division at the address below.

Department of General Services
 Prompt Payment Quality Assurance
 Procurement Division
 1823 14th Street
 IMS Code B-17
 Sacramento, CA 95814
 FAX: (916) 327-7592

CLIFF ALLENBY, Interim Director Department of General Services

Attachment



LATE PAYMENT PENALTIES PAID

This information is requested pursuant to the California Prompt Payment Act (Government Code §927 et seq.) as follows:

927.9 (a) On an annual basis, within 90 calendar days following the end of each fiscal year, state agencies shall provide the Director of General Services with a report on late payment penalties that were paid by the state agency in accordance with this chapter during the preceding fiscal year.

(b) At a minimum, the report shall identify the total number and dollar amount of late payment penalties paid. State agencies may, at their own initiative, provide the director with other relevant performance measures. The director shall prepare a report listing the number and total dollar amount of all late payment penalties paid by each state agency during the preceding fiscal year, together with other relevant performance measures, and shall make the information available to the public.

| Agency Name: Agency Address: | | Please return this form to: Department of General Services Prompt Payment Quality Assurance Procurement Division 1823 14 th St., IMS Code B-17 Sacramento, CA 95814 FAX: (916) 327-7592 | |
|-------------------------------|--|--|-----------------------------------|
| | | Contact Person: | |
| | | Telephone: | |
| Fiscal Year: | Number of Late Payment Occurrences: | | Total Value of Penalties Paid: \$ |
| *Other relevant performan | ce measureme | nt information | (as applicable): |
| | | | |
| | | | |
| | | | |
| | | | |